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November 10, 2011

VIA ELECTRONIC FILING

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: WC Docket No. 11-42 - Lifeline and Link Up Reform and Modernization
NOTICE OF EX PARTE PRESENTATION

Dear Ms. Dortch:

On November 9, 2011, F.J. Pollak - President and Chief Executive officer, TracFone Wireless, Inc., Javier Rosado - Senior Vice President - Lifeline Services, TracFone, Charles Shipp of SC Partners, and undersigned counsel met with Christine Kurth, Legal Advisor to Commissioner Robert McDowell.

During the meeting, we discussed issues before the Commission in the above-captioned pending Lifeline and Link Up Reform and Modernization proceeding. We presented several mechanisms which could be implemented by the Commission to prevent waste, fraud, and abuse of Universal Service Fund resources. These mechanisms include i) requiring all Eligible Telecommunications Carriers ("ETCs") to collect date of birth and Social Security numbers (last four digits) so as to confirm Lifeline applicants' identity; ii) requiring all ETCs to verify annually through self-certification under penalty of perjury that all of their enrolled Lifeline customers remain Lifeline-eligible (rather than surveying a random sample of customers), iii) establishment of mandatory non-usage and non-payment de-enrollment policies for non-billed and for post-paid Lifeline services respectively; and iv) eliminating Link Up support for ETCs who do not impose customary charges to offset their costs of connecting customers to their networks at the customers' primary place of residence as required by Section 54.411(a) of the Commission's Rules. Specifically, Link Up support from the Universal Service Fund should not be used to subsidize ETCs' marketing and advertising costs, verification of customer eligibility, or provision of telephone handsets. We indicated that savings from these reforms could exceed $760 million per year.

While the mechanisms described in the preceding paragraph would substantially reduce waste, fraud and abuse of USF resources without impeding the availability of Lifeline service to those who need assistance, certain other proposals before the Commission would not prevent waste, fraud and abuse, but would limit the availability of Lifeline. Specifically, the Commission should not i) impose a cap on the amount of available Lifeline support; ii) it should not require payment of minimum charges by Lifeline customers; and iii) it should not require applicants for Lifeline support based upon participation in qualifying programs to provide documentation of their participation (so-called "full certification"). During the meeting, we explained that mandatory full certification would result in a *de facto* cap on Lifeline enrollment.

TracFone has learned based on experience that full certification creates a barrier to enrollment of thousands of qualified low income households who often do not have such documentation readily available and, if they have the requisite documentation, do not have access to copying machines, facsimile machines, scanners or Internet access devices necessary to transmit the documentation to their preferred Eligible Telecommunications Carrier. In short, full certification would deprive many thousands of qualified low income households of Lifeline support just as a cap on Lifeline support would do.

We also explained that rules governing Lifeline enrollment should be applicable to all eligible telecommunications carriers without regard to whether those carriers provide Lifeline service using their own facilities or on a resale basis.

Positions taken during this meeting were consistent with positions asserted by TracFone in prior submissions in this proceeding. During the meeting a written presentation was provided to each attendee. A copy of that presentation is enclosed herewith for inclusion in the record of the proceeding.

Pursuant to Section 1.1206(b) of the Commission's rules, this letter is being filed electronically. If there are questions, please communicate directly with undersigned counsel for TracFone.

Sincerely,

Mitchell F. Brecher

Enclosure

cc: Ms. Christine Kurth
Ms. Kimberly Scardino

Enclosure

TRACFONE WIRELESS, INC.

LIFELINE AND LINK UP REFORM AND MODERNIZATION
WC DOCKET NO. 11-42

FCC Meetings

November 9, 2011

Overview

- TracFone is the largest provider of wireless Lifeline service in the US and the pioneer of this service.
- More than 3.8 million customers. Service available in most of the 38 states where it is an ETC.
- TracFone has implemented fraud prevention practices beyond those required by the FCC and the states, and beyond those of any other Lifeline provider.
- These practices have enabled TracFone to reduce its Lifeline support payments by more than $400 million annually resulting in a significant savings the USF.
- Those practices are effective ways to prevent waste, fraud and abuse of USF resources. If required of all ETCs would result in USF savings of $760 million per year.
- Self-certification with appropriate safeguards will prevent waste, fraud and abuse of USF resources.
- Lifeline should not be capped.

All ETCs Should be Subject to the Same Lifeline Rules

FCC has concluded that facilities ownership is not necessary for the provision of Lifeline service either to assure just and reasonable rates or otherwise protect consumers and that allowing wireless resale Lifeline services would serve the public interest. Federal-State Joint Board on Universal Service, Petition of TracFone Wireless, Inc., *et al*, 20 FCC Rcd 15095 (2005).

There is no reason to have different rules for Lifeline providers depending on whether they are facilities-based or resale.

Rules that prevent waste, fraud and abuse should be applicable to all providers.

4 Steps to Reduce Waste, Fraud, and Abuse, and Conserve USF Resources

- **Link Up** – Eliminate it for wireless Lifeline offers – USF savings of at least **$68 million**.
- **Self-Certification Under Penalty of Perjury** – All ETCs should be required to collect and verify Date of Birth and last 4 digits of SS# for all applicants, using 3rd party verification vendor (e.g. Lexis-Nexis) – future USF savings of **$192 million**.
- **Annual Verification** - All ETCs should be required to have 100% of their customer base self-certify their continuing eligibility annually (based on the current TracFone Forbearance condition) – additional USF savings of **$270 million**.
- **Non-Usage/Non-Payment** - ETCs should be required to de-enroll Lifeline customers that either do not use their Lifeline service for 60 consecutive days (for no charge, non-billed services) or who do not pay their bills for 60 days (for postpaid billed services) – additional USF savings of **$230 million**.
- Total USF Savings: **$760 million**

  (Based on estimated 12 million enrolled households.)

Link Up

- Allowing wireless ETCs to receive Link Up subsidies is a waste of millions of dollars per year of USF resources.
- In 2010, approximately $23 million of Link Up support was paid to wireless ETCs to subsidize advertising, marketing, regulatory compliance and other costs which have nothing to do with connecting customers to networks. That amount reflects no Link Up support to the members of the Link Up for America Coalition. Total Link Up support to wireless ETCs will be at least $68 million in 2011.
  - Link Up is defined as: "a reduction in the carrier's <u>customary charge</u> for commencing telecommunications service for a single telecommunications connection at a consumer's principal place of residence" (47 C.F.R. 54.411 (a)(1))
  - Charges that are not customary (*i.e.*, paid by all customers), or incurred for the purpose of connecting customers to a provider's service at the customer's residence are not entitled to Link Up support.
  - Advertising, marketing, and regulatory compliance costs are not costs of connecting customers to carriers' networks; they are costs of doing business incurred by all companies (including TracFone) which should not be subsidized by the Universal Service Fund.

Link Up (continued)

- Most wireless ETCs receiving Link Up support have no licensed wireless facilities and have not received forbearance from the FCC to offer Lifeline as a reseller.
- One wireless ETC even is receiving additional Link Up funds by offering an “installment payment plan” for a bogus activation fee.
- TracFone has never sought Link Up support but if it had received Link Up it would have been entitled to about $200 million based on the Lifeline customers it has enrolled since 2008.
- If the FCC is committed to reducing waste, fraud and abuse of the fund, Link Up support should be limited to offsetting customary charges of actually connecting customers to networks.   It should not be used to subsidize such ordinary business expenses as advertising and marketing nor to subsidize carriers’ costs of complying with federal and state enrollment and eligibility determination requirements.

Enrollment/Certification

- TracFone limits enrollment to "one per residence." Based upon the results of the first two states subject to the FCC's duplicate enrollment procedure (adopted June 21, 2011), few TracFone Lifeline customers in Florida and Tennessee have been de-enrolled due to receiving benefits from multiple programs.

- TracFone is the only Lifeline provider requiring all applicants to provide their date of birth and last 4 digits of SS # during enrollment to screen out fraudulent applicants.
  - This process has prevented more than 400,000 enrollments in 2011 resulting in an annual savings of approximately $48 million YTD. If all ETCs required DOB and last 4 digits of SS Nos., the future savings to the USF could be about **$192 million** per year.
  - These enrollment safeguards work and should be mandatory for all ETCs.
  - Self-certification with these safeguards effectively prevents most unqualified persons from receiving Lifeline benefits.

Full Certification Should Not Be Required

- Full certification (mandatory documentation of program-based eligibility) does not prevent enrollment of non-qualified households.
- Full Certification does nothing to prevent duplicate enrollment.
- Full certification does preclude thousands of qualified low-income households from obtaining Lifeline support.
- In full certification states, most applicants are unable to complete the enrollment process.
- With a national eligibility data base on the horizon, requiring full certification in the short-term would destroy the Lifeline program for the long-term by making the program unavailable to many qualified households.

Full Certification Should Not Be Required (continued)

Example: In Louisiana (a self-certification state) 71% of consumers who contact TracFone about Lifeline complete the enrollment process; in Missouri (a full certification state) 32% complete the enrollment process. Reasons:

- Many low income consumers do not have documentation of program enrollment available.
- Of those who do have such documentation, most do not have access to scanners, copying machines, fax machines or Internet access computers necessary to send documentation to ETCs. (even the U.S. Postal Service has discontinued making copiers and fax machines available to consumers).
- It costs TracFone $140 per customer in full certification states to enroll a customer as compared with $25 per customer in self-certification states, with no increase in the percentages of qualified enrolled customers.
- In Washington and Wisconsin, TracFone is able to access state data bases to verify customers' program-based eligibility. In those states, 88% (Washington) and 95% (Wisconsin) of initially self-certified customers were Lifeline-eligible based on the state data base.

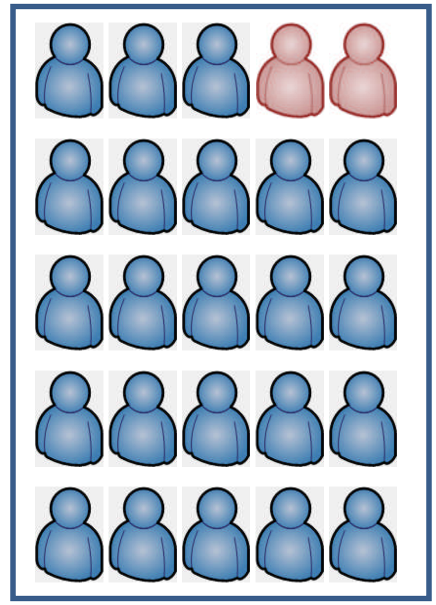
Conclusion

Full certification does little to assure that only qualified consumers enroll but it deters many qualified consumers from enrolling -- a reason why only 33% of qualified households are receiving Lifeline benefits. A de facto cap on Lifeline enrollment.

Self Certification vs. Full Certification

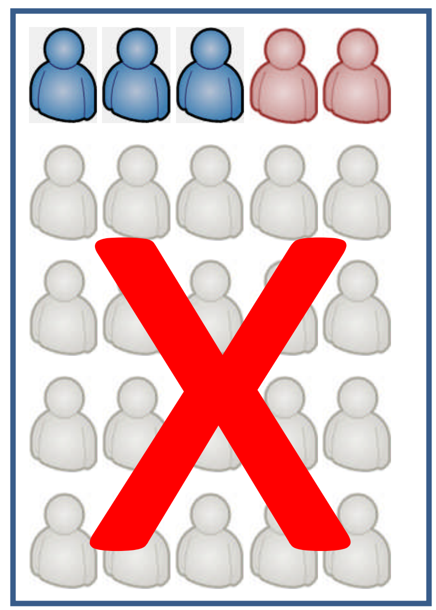
Self Certification **CPGA*: $25**

25 households enrolling, 2 would be fraudulent, and the remaining 23 that qualify would receive lifeline support.



Full Certification **CPGA: $140**

Switching to Full Certification to prevent 2 fraudulent households, would enroll only 3 households, *while 20 that qualify would not complete the process, and be without lifeline support.*



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* Cost Per Gross Addition

Annual Verification of Continued Eligibility

- As required by the 2005 Forbearance Order, all TracFone Lifeline customers must self-certify under penalty of perjury at enrollment and annually that they are Lifeline-eligible and only receive Lifeline service from TracFone. TracFone de-enrolls 26% of Lifeline customers each year based on this requirement and has de-enrolled more than 1.3 million customers since 2008.
  - This has saved the Fund approximately $165 million on an annualized basis. If all ETCs were subject to this annual verification requirement, additional savings to the USF could be approximately **$270 million** per year.
- ETCs not subject to the Forbearance Order conditions are only required to use a "random sample method" of verification which results in only a small (less than 5%) portion of their customers having to verify continuing eligibility. All non-sampled customers (more than 95% of their bases) continue to receive Lifeline support whether or not they remain Lifeline-eligible.
- Example: ETC has 100,000 Lifeline customers. 5,000 are sampled. Of those, 50% either are no longer eligible or do not respond. Those 2,500 customers are de-enrolled. None of the 95,000 non-sampled customers are de-enrolled even though it is virtually certain that some portion (probably a comparable percentage to those who are sampled) either are not eligible or would not respond.

Non-Usage/ Non-Payment

- TracFone de-enrolls Lifeline customers who do not use their Lifeline service for more than 60 consecutive days. This non-usage policy was developed by TracFone in consultation with several state commissions and is followed in each state where TracFone provides Lifeline service. It has de-enrolled more than 1.5 million customers or about 24% per year).
  - This has saved the USF about $183 million per year. If all ETCs were required to de-enroll comparable numbers of customers for non-usage/non-payment as TracFone de-enrolls, the additional savings to the USF would be about **$230 million** per year.
- It is wasteful of USF resources to provide Lifeline support to carriers for customers that do not use their Lifeline service.
- It is also wasteful of USF resources to provide Lifeline support to carriers for customers that do not pay their bills for Lifeline-supported service.
- Examples: In California an ETC is required to collect $2 a month from customers to provide a 250 minute benefit. The ETC receives about $10 per customer per month for providing the benefit. Even if the customer does not pay the $2 billed fee, the ETC has no incentive to terminate the customer for non-payment of a $2 bill and lose the $10 USF support. This is also true for tribal Lifeline support where ETCs receive about $35 per customer per month in Lifeline support (Tiers 1, 2, 3, and 4) and are required to charge customers $1.

Pending Reform Proposals Which Should Not Be Adopted

- **Capping Lifeline is not necessary** - With more people living in poverty than any other time in modern history, it is a bad idea. Lifeline is an "empowerment" program providing low-income consumers with a way to connect with the world around them. Without a cell phone, how does one live today?
  - Instituting the reforms we have proposed will save millions of dollars and allow many new qualified low-income consumers to get service.
  - Some favor extending Lifeline (wireless) to 1 per qualifying adult. TracFone does not support "one per qualifying adult," but it would be easier to do that if the FCC takes steps to eliminate fraud, waste and abuse in this program.
  - A savings of $760,000,000 could fund as many as 6,500,000 additional Lifeline customers, making a one-per-qualifying adult rule affordable.
  - Capping the Lifeline program will cause qualified, deserving low income households not to be allowed to enroll if they apply or become eligible after the capped amount has been reached. Just as Food Stamps, Medicaid, LIHEAP, School Lunches and other low-income assistance program don't become unavailable to qualified persons depending on when during the year they apply, neither should Lifeline support be limited in this manner.
- Mandatory, minimum charges do not work. Reasons:
  - Many Lifeline customers (60% of TracFone's) are "unbanked" (no checking accounts or credit cards) and have no method of paying.
  - For many customers, even a modest monthly charge is beyond their means and would cause them to de-enroll. 80% of TracFone Lifeline customers surveyed indicated that they could not afford to pay any monthly charge.
  - Carriers like TracFone offer non-billed services only and have no billing systems. The costs of developing such systems would force such carriers out of the Lifeline segment of the market.

Conclusion

- To provide Lifeline service there is no need to own or operate facilities. That is why the FCC adopted the 2005 TracFone Forbearance Order.
- There is no need or reason to impose different requirements on Lifeline providers based on facilities ownership.
- If two ETCs provide USF-supported services using the same model (*e.g.*, non-billed or no-charge services), they should be subject to the same requirements and conditions, without regard to facilities-ownership – especially if the facilities they "own" are not used to provide the USF-supported service (*e.g.*, wireless Lifeline).
- Today, there are many wireless Lifeline providers that have no licensed wireless facilities but who claim to be facilities-based and enjoy more favorable rules. They receive Lifeline and Link Up subsidies, even though it would appear they are not even authorized to provide this service, nor entitled to receive Link Up. This is a waste of USF resources and need to be fixed.
- If the FCC adopts the reforms proposed herein (which TracFone already has implemented), much waste, fraud and abuse of Lifeline can be avoided and payments from the fund will be reduced, enabling more qualified low income people or households to receive Lifeline support.